

Nicole Luchetta Rump
October 10, 2018

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Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA3
4 B.L., A MINOR, BY AND THROUGH :
5 HER FATHER, LAWRENCE LEVY, : CIVIL NO. 3:17-CV-1734-ARC
6 AND HER MOTHER, BETTY LOU :
7 LEVY, :8 PLAINTIFFS :
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MAHANoy AREA SCHOOL DISTRICT,

DEFENDANT

DEPOSITION OF: NICOLE LUCHETTA-RUMP

TAKEN BY: PLAINTIFFS

BEFORE: MARIA N. O'DONNELL, RPR
NOTARY PUBLIC

DATE: OCTOBER 10, 2018, 8:51 A.M.

PLACE: MAHANoy AREA SCHOOL DISTRICT
ONE GOLDEN BEAR DRIVE
MAHANoy CITY, PENNSYLVANIA**EXHIBIT****D - 20**

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6 to 9

<p style="text-align: right;">Page 6</p> <p>1 Q Are you the person who's most knowledgeable about</p> <p>2 that topic?</p> <p>3 A Yes.</p> <p>4 Q You have also been designated to testify for the</p> <p>5 district about topic five starting on page A8. And Coach</p> <p>6 Gnall has also been designated on subparts D and E of five.</p> <p>7 Are you the --</p> <p>8 MR. BROWN: Actually I believe that was the</p> <p>9 Superintendent Green for 5D and E.</p> <p>10 MS. TACK-HOOPER: Oh, okay. I am not sure about</p> <p>11 that. Is that --</p> <p>12 MR. BROWN: Yes.</p> <p>13 MS. TACK-HOOPER: Green. Okay.</p> <p>14 MR. BROWN: Right.</p> <p>15 BY MS. TACK-HOOPER:</p> <p>16 Q Okay. All right. Are you able to speak for the</p> <p>17 district on topic five?</p> <p>18 A Yes.</p> <p>19 Q All right. If I ask you about anything that you</p> <p>20 think someone else is more knowledgeable about, will you tell</p> <p>21 me that?</p> <p>22 A Yes.</p> <p>23 Q Okay. Is there any reason why you cannot give</p> <p>24 truthful testimony today?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 8</p> <p>1 advisor?</p> <p>2 A Yes.</p> <p>3 Q Okay. Who do you report to in your capacity as</p> <p>4 cheerleading advisor?</p> <p>5 A I report to the high school principal, the athletic</p> <p>6 director, and the superintendent as well.</p> <p>7 Q How many years have you held some kind of</p> <p>8 cheerleading title at the district?</p> <p>9 A This is my fourth year.</p> <p>10 Q And how long have you worked for the district as a</p> <p>11 teacher?</p> <p>12 A This is my ninth year.</p> <p>13 Q Did you coach cheerleading before coming to the</p> <p>14 district?</p> <p>15 A I did not.</p> <p>16 Q I am going to ask you just generally about</p> <p>17 cheerleading. How does someone get on to the cheerleading</p> <p>18 team?</p> <p>19 A They have to try out.</p> <p>20 Q And what do the tryouts involve?</p> <p>21 A They include a process where they have a two-day</p> <p>22 workshop. They come in. They learn a cheer, a side line,</p> <p>23 jumps and a dance. And then they come and perform those.</p> <p>24 They are scored on a score sheet. We have outside judges come</p> <p>25 in to score them, then we take the highest scores for varsity,</p>
<p style="text-align: right;">Page 7</p> <p>1 Q What did you do to prepare for this deposition</p> <p>2 today?</p> <p>3 A We met yesterday just -- and viewed these documents</p> <p>4 that were sent to us.</p> <p>5 Q Okay. By these documents, you are gesturing toward</p> <p>6 the 30 (b) (6) notice, is that correct?</p> <p>7 A Yes. Yes.</p> <p>8 Q Did you look at any other documents?</p> <p>9 A Not that I am -- I mean there was this one. I think</p> <p>10 there was one other notice. I don't know the title of it, but</p> <p>11 there is one other notice that we had.</p> <p>12 Q Okay.</p> <p>13 A It looked similar to that.</p> <p>14 Q Okay. A legal document of some sort?</p> <p>15 A Yes. Yes.</p> <p>16 Q Okay. What is your title?</p> <p>17 A I am a high school math teacher as well as a</p> <p>18 cheerleading advisor.</p> <p>19 Q What does cheerleading advisor mean?</p> <p>20 A It is basically a cheerleading coach.</p> <p>21 Q Okay.</p> <p>22 A Last year, I was a co-advisor. This year I am a</p> <p>23 head cheerleading advisor since April Gnall resigned last</p> <p>24 year.</p> <p>25 Q Are you paid extra for your work as cheerleading</p>	<p style="text-align: right;">Page 9</p> <p>1 then the lower scores for JV.</p> <p>2 Q And what are those judges looking for?</p> <p>3 A Motions, voice. I have to think what else is on the</p> <p>4 score sheet. I think appearance was on there as well.</p> <p>5 Q What do you mean by appearance?</p> <p>6 A They have to come in without any jewelry on, no nail</p> <p>7 polish, hair in a pony tail, stuff like that.</p> <p>8 Q Why is that?</p> <p>9 A The hair up in a pony tail, that -- when they're</p> <p>10 actually performing, that could be a safety issue; when we're</p> <p>11 building, jewelry can also be a safety issue. Then the nail</p> <p>12 polish is just everyone looks as uniform as one group.</p> <p>13 Q Is there any requirement to be on the team other</p> <p>14 than the tryouts? Do you have to fill out a written</p> <p>15 application, for example, anything like that?</p> <p>16 A To initially try out, they have to sign -- it's a --</p> <p>17 basically a waiver. They have to put their emergency contact</p> <p>18 information on there as well. Then they sign a waiver saying</p> <p>19 they agree to the rules.</p> <p>20 The rules are given to them at -- the day of the</p> <p>21 tryouts. In addition to that, they also have to get a</p> <p>22 physical which is actually after tryouts. But if they don't</p> <p>23 have the physical, they cannot participate, so that is</p> <p>24 something that PIAA requires.</p> <p>25 Q Okay. You are not screening potential cheerleaders</p>

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10 to 13

<p style="text-align: right;">Page 10</p> <p>1 for like character and fitness, for example?</p> <p>2 A No. No. That's after the fact. Well, the</p> <p>3 physicals are any way.</p> <p>4 Q Physicals are. Okay.</p> <p>5 And cheerleaders don't have to have recommendations</p> <p>6 to get on the team?</p> <p>7 A Not for our school, no.</p> <p>8 Q Do you consider their grades at all?</p> <p>9 A They must be eligible to try out, which means in</p> <p>10 order to participate in the sports, they have to be passing</p> <p>11 all of their classes except for one. If they're passing --</p> <p>12 failing two or more classes, they cannot try out.</p> <p>13 Q When you select cheerleaders for the team, are the</p> <p>14 you evaluating their potential leadership abilities in any</p> <p>15 way?</p> <p>16 A Not at the tryout, no. That would come more into if</p> <p>17 we were doing captains or something like that. But at the</p> <p>18 tryout, I don't honestly -- I don't know them well enough to</p> <p>19 do such a thing.</p> <p>20 Q Okay. You don't ask teachers about them or have</p> <p>21 them fill out -- write an essay, anything like that to try to</p> <p>22 evaluate that?</p> <p>23 A No.</p> <p>24 MS. TACK-HOOPER: Okay. This is D7.</p> <p>25 BY MS. TACK-HOOPER:</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Why?</p> <p>2 A This is for me to better set practice schedules</p> <p>3 because I work around all of these other activities, so I just</p> <p>4 like to get an idea as what activities I need to schedule my</p> <p>5 practice around.</p> <p>6 Q Okay. Can cheerleaders participate in other sports?</p> <p>7 A We allow them to participate in anything. But other</p> <p>8 sports have regulations on whether they cannot do cheerleading</p> <p>9 in addition to; for example, band front, they do not allow</p> <p>10 them to do cheerleading and band front at the same time. They</p> <p>11 said there is too much of a conflict. So I do not have any,</p> <p>12 but others sports activities do have some.</p> <p>13 Q Okay. Now, you testified at the preliminary</p> <p>14 injunction hearing in this case, correct?</p> <p>15 A Yes.</p> <p>16 Q And you testified that the rules, the cheerleading</p> <p>17 rules are explained to students at tryouts. Is that correct?</p> <p>18 A Yes.</p> <p>19 Q Did that include telling the cheerleaders at tryouts</p> <p>20 that they could be punished for their out-of-school speech?</p> <p>21 A We went through the entire rule sheet as it is. I</p> <p>22 did not stray from what is on the school's -- on the rule</p> <p>23 sheet. So it doesn't specifically address out-of-school</p> <p>24 speech, it just says in general anything negative posted about</p> <p>25 cheerleaders and school teachers, employees and so on would be</p>
<p style="text-align: right;">Page 11</p> <p>1 Q I am handing you a document that's previously been</p> <p>2 marked D7. It says application for cheerleading tryouts at</p> <p>3 the top. Are you --</p> <p>4 A Yes.</p> <p>5 Q Are you familiar with this document?</p> <p>6 A Yes.</p> <p>7 Q The second sentence says I understand that he/she</p> <p>8 must abide by the rules and regulations set forth by the</p> <p>9 advisor and the principal of Mahanoy Area High School and be</p> <p>10 present for all practices and games. Did I read that right?</p> <p>11 A Yes.</p> <p>12 Q Does rules and regulations in that sentence refer to</p> <p>13 the cheerleading rules?</p> <p>14 A Yes.</p> <p>15 Q The third sentence says I have read the rules and</p> <p>16 regulations and understand that the violation of any of these</p> <p>17 rules may lead to temporary or permanent suspension from the</p> <p>18 squad. Does that also refer to the cheerleading rules?</p> <p>19 A Yes. The first sentence includes the cheerleading</p> <p>20 as well as the Mahanoy Area School rules, which are outlined</p> <p>21 in the handbook. And then the second one is just solely on</p> <p>22 the cheerleading rules.</p> <p>23 Q Okay. The form also asks students to list their</p> <p>24 extracurricular activities?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 punished.</p> <p>2 Q Can you describe the differences between the JV and</p> <p>3 varsity team to me?</p> <p>4 A The varsity team and the JV team -- the varsity</p> <p>5 cheers at more events. Varsity will cheer at varsity</p> <p>6 football, varsity basketball. JV only cheers at JV football</p> <p>7 games, part of the varsity football games and only JV home</p> <p>8 basketball games.</p> <p>9 Q Okay. Do either of those teams compete?</p> <p>10 A No.</p> <p>11 Q Do the JV and varsity teams practice together or</p> <p>12 separately?</p> <p>13 A Over the summer, we practice together. Then when</p> <p>14 basketball time comes around, we often stray apart. So for</p> <p>15 the most part, we practice together all summer. Then during</p> <p>16 the winter times, there are times we practice together. There</p> <p>17 is times we practice apart based on what we're teaching.</p> <p>18 Q What did you -- do you consider to be the</p> <p>19 cheerleading season?</p> <p>20 A Although there is no sport seasons over the summer,</p> <p>21 we practice all summer. Then we continue to practice until</p> <p>22 the end of basketball season. So we are working from the</p> <p>23 beginning of summer, from tryouts, which are usually in May,</p> <p>24 all of the way through until I would say the end of March of</p> <p>25 the following year.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q How often do you practice?</p> <p>2 A Over the summer, we practice twice a week. When we</p> <p>3 go back to school, I have worked around the girls schedules.</p> <p>4 That could be once a week, twice a week. It really depends on</p> <p>5 their schedules.</p> <p>6 Q My understanding is that there was only one practice</p> <p>7 in September of 2018. Is that correct?</p> <p>8 A That is correct.</p> <p>9 Q Why was that?</p> <p>10 A Because we were practicing Tuesdays and Thursdays</p> <p>11 because I like to work around -- I like to keep them</p> <p>12 consistent, because some of the girls have to give their work</p> <p>13 schedule and stuff like that. So I told them Tuesdays and</p> <p>14 Thursdays will be our days to practice. Then we have several</p> <p>15 girls that are on the volleyball team, so their coach will not</p> <p>16 let them practice on game days. And he also doesn't like them</p> <p>17 to really -- I mean if they have practice, we will practice</p> <p>18 the same day after their practice. But on game days, he</p> <p>19 doesn't want cheerleading practice to occur. I work around</p> <p>20 their game. If they don't have a game, then I have practice</p> <p>21 right after volleyball practice.</p> <p>22 Q Do the cheerleading squads cheer for any women</p> <p>23 sports teams?</p> <p>24 A No, not currently.</p> <p>25 Q Who makes the decision about which teams to cheer</p>	<p style="text-align: right;">Page 16</p> <p>1 to suit your needs?</p> <p>2 A Uh-huh.</p> <p>3 Q Is that a yes?</p> <p>4 A Yes.</p> <p>5 Q Okay. When was that, your update?</p> <p>6 A The very first year April and I coached, from my</p> <p>7 recollection, we did not change anything except for changing</p> <p>8 our names, adding our names and our phone numbers into the</p> <p>9 rule sheet. So we just wanted to see how that year went, see</p> <p>10 what we felt needed to be changed. We did change some minor</p> <p>11 things. I know for sure one of them was like uniforms have to</p> <p>12 be washed weekly and line dried. So there were just a couple</p> <p>13 things that we felt we needed to add to that. I think -- let</p> <p>14 me see what else. I believe that I added about the</p> <p>15 conversation that they had to fill out a transportation form</p> <p>16 because that is a school policy as well, but that just wasn't</p> <p>17 in the rule sheet.</p> <p>18 Q Okay.</p> <p>19 A And then we did, which I can explain later as to</p> <p>20 why, but we did change the technology policy slightly because</p> <p>21 it did state that any negative information posted on the</p> <p>22 internet would be automatic dismissal from the squad. But</p> <p>23 instead our high school principal suggested that we put this</p> <p>24 on top of the rule sheet. It says all of the information</p> <p>25 below is at the coaches' discretion, and rules may be subject</p>
<p style="text-align: right;">Page 15</p> <p>1 for?</p> <p>2 A I am not sure whoever came up with -- who they cheer</p> <p>3 for, who we don't. We have just continued on the tradition</p> <p>4 from prior years as to what they actually cheer for --</p> <p>5 Q Do you currently have any male cheerleaders?</p> <p>6 A We almost did. We had one over the summer, but he</p> <p>7 decided not to do it.</p> <p>8 Q Okay. Do you have any who tried out and didn't make</p> <p>9 the team?</p> <p>10 A No.</p> <p>11 Q I noticed that in some of the previous rules it</p> <p>12 referred to cheerleaders as girls. So I was trying to figure</p> <p>13 out if it was an exclusively girls sport or not.</p> <p>14 A No.</p> <p>15 Q Not exclusively girls?</p> <p>16 A No.</p> <p>17 Q Just currently girls?</p> <p>18 A Currently it is, yes.</p> <p>19 Q Okay.</p> <p>20 A I think it was two years ago, we did have -- we had</p> <p>21 a male on for two years.</p> <p>22 Q Okay. I'd like to talk about the cheerleading rules</p> <p>23 which have previously been marked as Exhibit D3.</p> <p>24 Okay. I believe that you testified at the</p> <p>25 preliminary injunction hearing that you had updated the rules</p>	<p style="text-align: right;">Page 17</p> <p>1 to change. So that is one change that was made.</p> <p>2 MS. TACK-HOOPER: Can we mark this as P-3?</p> <p>3 (Cheerleading rules 2016-2017 document produced and</p> <p>4 marked Deposition Exhibit Number P3.)</p> <p>5 BY MS. TACK-HOOPER:</p> <p>6 Q I have handed you what's just been marked as P-3.</p> <p>7 Is this the 2016-2017 cheerleading rules?</p> <p>8 A Uh-huh.</p> <p>9 Q The one -- last one that you were looking at was</p> <p>10 2017-2018?</p> <p>11 A Yes.</p> <p>12 Q It appears to me the technology portion of the</p> <p>13 2016-2017 rules is what you just described, is that right?</p> <p>14 A I believe these are the same technology section,</p> <p>15 yes.</p> <p>16 Q So you were describing a change that you made in</p> <p>17 2016 from the prior set of rules, is that right?</p> <p>18 A It was after my first year of coaching, it was</p> <p>19 changed.</p> <p>20 Q What was your first year of coaching?</p> <p>21 A Oh, dear.</p> <p>22 Q If you can't recall, it's okay.</p> <p>23 A It would have been four years ago, whatever school</p> <p>24 year that ends up being.</p> <p>25 MR. BROWN: So this is your fourth year. You are</p>

<p style="text-align: right;">Page 18</p> <p>1 saying it was 2015-16?</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MS. TACK-HOOPER:</p> <p>4 Q Okay. So I have cheerleading rules from 2009, 2010,</p> <p>5 then the next one I have is 2016, 2017?</p> <p>6 A Yes. I don't have a copy of those.</p> <p>7 Q That's fine. But your recollection is that the</p> <p>8 2016-2017, and 2017 and 2018 are basically the same as the</p> <p>9 first two years that you were coaching as well?</p> <p>10 A Yes. They're pretty much the same except for that</p> <p>11 technology section which we just changed by adding that</p> <p>12 because there is many different situations to be addressed in</p> <p>13 that section.</p> <p>14 Q Okay. Just for the record, when you said we changed</p> <p>15 by adding that, you were gesturing to the language that</p> <p>16 says --</p> <p>17 A The italicized section up here that says all of the</p> <p>18 information below is at the coaches' discretion, and rules may</p> <p>19 be subject to change. If there is a situation with extreme</p> <p>20 circumstances, it will be addressed at that time.</p> <p>21 Q Okay.</p> <p>22 A And that was as per recommendation of Tom Smith.</p> <p>23 MS. TACK-HOOPER: Okay. Let's mark this P-4.</p> <p>24 (Cheerleading rules 2009-2010 document produced and</p> <p>25 marked Deposition Exhibit Number P4.)</p>	<p style="text-align: right;">Page 20</p> <p>1 Q Do you know if they ever went to the board in any</p> <p>2 fashion?</p> <p>3 A No, we don't do that here.</p> <p>4 Q Okay. Let's go back to D3, the 2017, 2018</p> <p>5 cheerleading rules. Okay? I'd like to look at the first</p> <p>6 bullet under sportsmanship and responsibilities/fundraising.</p> <p>7 It says please have respect for your school, coaches,</p> <p>8 teachers, other cheerleaders and teams. Remember you are</p> <p>9 representing your school when at games, fundraisers and other</p> <p>10 events. Good sportsmanship will be enforced. This includes</p> <p>11 foul language and inappropriate gestures. Did I read that</p> <p>12 correctly?</p> <p>13 A Yes.</p> <p>14 Q I am going to refer to this as the respect</p> <p>15 provision; okay? Is that fair?</p> <p>16 A Yes. Yes.</p> <p>17 Q Okay. The phrase please have respect, is that a</p> <p>18 suggestion or a request, or is it a rule?</p> <p>19 A That's a rule. These are all rules.</p> <p>20 Q Okay. Is respect expected at all times as opposed</p> <p>21 to just during cheerleading?</p> <p>22 A At all times they're a cheerleader, whether they're</p> <p>23 in uniform or not. So they're expected to act accordingly</p> <p>24 toward their school.</p> <p>25 Q Okay. How do you decide what is respectful and what</p>
<p style="text-align: right;">Page 19</p> <p>1 BY MS. TACK-HOOPER:</p> <p>2 Q Okay. I am handing you what has been marked as P4,</p> <p>3 the 2009, 2010 cheerleading rules?</p> <p>4 A Yes.</p> <p>5 Q So by the time that you were coaching cheerleading,</p> <p>6 the rules already looked a little bit different from this, is</p> <p>7 that correct?</p> <p>8 A That's correct.</p> <p>9 Q Okay. Have you seen this set of rules before?</p> <p>10 A I have not.</p> <p>11 Q Okay. Did anyone review the rules after you edited</p> <p>12 them?</p> <p>13 A That would have been between seasons that they were</p> <p>14 edited. So my first year, they were the set of rules that we</p> <p>15 don't see here. And then I edited them for the next tryouts,</p> <p>16 then this set of rules was reviewed.</p> <p>17 Q By whom was it reviewed?</p> <p>18 A Oh, did anyone look at them?</p> <p>19 Q Yes.</p> <p>20 A I had Tom Smith, which was our high school principal</p> <p>21 at the time, I just had him read through them and ask him if</p> <p>22 he had any suggestions. So he didn't have to approve them. I</p> <p>23 just asked him for suggestions on how to make them better.</p> <p>24 Q Okay. No one had to approve your changes?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 21</p> <p>1 is not?</p> <p>2 A I mean that's a large variety of different</p> <p>3 situations that you can be put on. So -- or, you know what I</p> <p>4 mean. Like a lot of different situations that can come up.</p> <p>5 So really it depends on the situation. At that time the</p> <p>6 coaches evaluate and see, you know, how we feel, if it's</p> <p>7 something that is punishable or not. So it's on a kind of</p> <p>8 case by case basis when it comes to that.</p> <p>9 Q The second sentence there, remember you're</p> <p>10 representing your school when at games, fundraisers and other</p> <p>11 events, you agree with me that this does not say you're</p> <p>12 representing your school even when you are not at games,</p> <p>13 fundraisers and events?</p> <p>14 A Yes.</p> <p>15 Q Is it your position that students are in fact</p> <p>16 representing their school all of the time?</p> <p>17 A When they mention cheerleading or wearing anything</p> <p>18 Mahanoy related, yes.</p> <p>19 Q Is that true of cheerleaders or all students?</p> <p>20 A Well, I would say cheerleaders or anyone that's on a</p> <p>21 team.</p> <p>22 Q Okay. If they're not wearing any school</p> <p>23 paraphernalia, is it fair to say they're not representing the</p> <p>24 school if it's outside of school hours?</p> <p>25 A It depends on the situation. But I would say if</p>

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22 to 25

<p style="text-align: right;">Page 22</p> <p>1 they're not bringing anything school related into the</p> <p>2 situation, then yes.</p> <p>3 Q Okay. What is good sportsmanship?</p> <p>4 A Good sportsmanship is -- I believe that's outlined</p> <p>5 in the PIAA regulations as well. But in my opinion, that is</p> <p>6 also again a wide variety of topics. But any negativity</p> <p>7 toward other team and cheerleaders and other schools, all of</p> <p>8 that is considered bad sportsmanship. So good sportsmanship,</p> <p>9 that's hard to define because obviously that's treating other</p> <p>10 teams properly and other cheerleaders and your school</p> <p>11 properly. But it's more what is bad sportsmanship defined as.</p> <p>12 Q Okay. How do you decide if something is bad</p> <p>13 sportsmanship?</p> <p>14 A If it's anything that is posted negatively that</p> <p>15 would demean a school, a team, a teacher on that team or a</p> <p>16 coach on a team, anything such as that.</p> <p>17 Q Do you read the PIAA regulations when you're trying</p> <p>18 to decide if something is good sportsmanship or bad</p> <p>19 sportsmanship?</p> <p>20 A I do refer to -- back to them at times, yes. They</p> <p>21 are in the school handbook.</p> <p>22 Q Oh, okay. So you don't read anything separate from</p> <p>23 the handbook and the cheerleading rules?</p> <p>24 A No. I use what is outlined in the handbook.</p> <p>25 Q Okay. Is good sportsmanship required at all times</p>	<p style="text-align: right;">Page 24</p> <p>1 A Okay.</p> <p>2 Q It says there will be no toleration of any negative</p> <p>3 information regarding cheerleading, cheerleaders or coaches</p> <p>4 placed on the internet. I may refer to this as the negative</p> <p>5 information provision if that's okay with you?</p> <p>6 A Yes.</p> <p>7 Q Okay. What is negative information?</p> <p>8 A Anything that demeans a school, another cheerleader,</p> <p>9 another team.</p> <p>10 Q Or cheerleading itself, correct?</p> <p>11 A Correct.</p> <p>12 Q Okay. Now, at the preliminary injunction hearing,</p> <p>13 you testified that you did not think that it would be negative</p> <p>14 information to say cheerleaders are at high risk for eating</p> <p>15 disorders, correct?</p> <p>16 A Correct.</p> <p>17 Q Why isn't that negative information regarding</p> <p>18 cheerleading?</p> <p>19 A That would be something that research has posted.</p> <p>20 This would be fact that someone had found.</p> <p>21 Q Okay.</p> <p>22 A But I don't feel like that's saying that -- that's</p> <p>23 just one person's research. Do you know what I mean?</p> <p>24 Q I am -- I think so. But I am not sure. So let me</p> <p>25 make sure I do. If something is a statement of fact, then it</p>
<p style="text-align: right;">Page 23</p> <p>1 whether or not a cheerleader is at cheer?</p> <p>2 A Just as long as they are not referring to anything</p> <p>3 cheerleading related. So if cheerleading is involved into it,</p> <p>4 yes, I expect good sportsmanship to occur.</p> <p>5 Q What language is foul?</p> <p>6 A Any type of cursing, anything derogatory, anything</p> <p>7 that would be considered racist or in that type of category.</p> <p>8 Q I ask because I know that TV networks have entire</p> <p>9 departments that do nothing but try to determine if something</p> <p>10 is outside the bounds of good taste and thus can't go on T.V.</p> <p>11 or not. So I was wondering how you decide what is foul</p> <p>12 language.</p> <p>13 A Right. And we hold them -- since they are</p> <p>14 teenagers, we hold them to a higher standard. Because at that</p> <p>15 age, more types of language is considered inappropriate as to</p> <p>16 something an adult would watch on television.</p> <p>17 Q Okay. Is saying that's stupid foul language?</p> <p>18 A No. I would say it's inappropriate, but not foul.</p> <p>19 Q Okay. What are inappropriate gestures?</p> <p>20 A Things such as giving the middle finger, anything</p> <p>21 that insinuates something inappropriate. I don't know how to</p> <p>22 answer that. But anything that is sexual in nature, something</p> <p>23 that is -- that represents something that's inappropriate.</p> <p>24 Q Okay. I'd like to look at the second bullet point</p> <p>25 under technology.</p>	<p style="text-align: right;">Page 25</p> <p>1 does not count as negative information?</p> <p>2 A I am going to be honest, I don't even remember you</p> <p>3 asking me that question.</p> <p>4 Q Okay.</p> <p>5 A But I don't -- it's someone from the outside giving</p> <p>6 their expression on cheerleading, but not a specific team, not</p> <p>7 my team. But -- I honestly don't know how to answer that</p> <p>8 question.</p> <p>9 Q Okay. Okay.</p> <p>10 Do you -- well, since you don't remember me asking</p> <p>11 you before, do you -- am I correct that you think that saying</p> <p>12 cheerleaders are at high risk for eating disorders would not</p> <p>13 violate the negative information provision?</p> <p>14 A Well, that's not a cheerleader stating that, so....</p> <p>15 Q Well, let's say a cheerleader stated that. Let's</p> <p>16 say B. posted on Snapchat cheerleaders are at high risk for</p> <p>17 eating disorders?</p> <p>18 A She just was repeating something from someone else</p> <p>19 that she found. She's -- do you know what I mean? She's</p> <p>20 repeating facts that she found on line.</p> <p>21 Q And your understanding is that it's not negative</p> <p>22 information unless you are injecting your own personal views</p> <p>23 into the statement, is that right?</p> <p>24 A Right. She's not posting negative information</p> <p>25 toward our cheerleading squad. She's just posting facts that</p>

<p style="text-align: right;">Page 26</p> <p>1 are insinuating negative information.</p> <p>2 Q Okay. Okay. So generally factual statements would</p> <p>3 most likely not violate this rule, is that right?</p> <p>4 A It depends on what type of facts she's posting.</p> <p>5 Q Okay.</p> <p>6 A Or whoever.</p> <p>7 Q Okay. Can you think of a fact about cheerleading</p> <p>8 that go would violate this? And you can feel free to make up</p> <p>9 a fact. It doesn't need to be true.</p> <p>10 A My goodness. I honestly can't think of something.</p> <p>11 Q Okay. Fair enough.</p> <p>12 You also testified that posting I don't really like</p> <p>13 cheerleading that much any more would violate this rule. Is</p> <p>14 that correct?</p> <p>15 A It would be considered negative. So it would be</p> <p>16 something that would be addressed, but not to the extent of</p> <p>17 removal from the squad.</p> <p>18 Q What -- how would you address that?</p> <p>19 A That would be a situation where the coaches, whether</p> <p>20 it was a JV coach, member or myself, would talk to them and</p> <p>21 ask them, you know, why do you feel this way, is there</p> <p>22 something that can be done about it. I don't feel that that</p> <p>23 is a means for removal. But it is a situation that should be</p> <p>24 addressed.</p> <p>25 Q Okay. So you would talk to the student about that</p>	<p style="text-align: right;">Page 28</p> <p>1 What if a student posted criticism of the fact that</p> <p>2 some cheerleaders had to do JV before making varsity while</p> <p>3 others didn't, does that violate the negative information</p> <p>4 provision?</p> <p>5 A No.</p> <p>6 Q What do you understand the phrase, quote, placed on</p> <p>7 the internet, close quote, to mean?</p> <p>8 A Anything that is -- anything that appears on the</p> <p>9 internet. Anything that is submitted to the internet.</p> <p>10 Because anything that's on the internet can be seen by anyone,</p> <p>11 whether it is in a group, whether it is posted on someone's</p> <p>12 Facebook wall, everyone can see that some way or another.</p> <p>13 Q What do you mean by everyone can see that? Thinking</p> <p>14 specifically some Facebook groups, for example, are closed.</p> <p>15 Right?</p> <p>16 A But nothing is really closed.</p> <p>17 Q Okay.</p> <p>18 A Everything says that it is private, that it is</p> <p>19 closed, but it's really not.</p> <p>20 Q So what do you -- how would say a private message</p> <p>21 sent over the internet to a closed group of people, how would</p> <p>22 that become public to everyone?</p> <p>23 A All someone needs to do is take a screen shot and</p> <p>24 share that, and then everyone sees it.</p> <p>25 Q Does the phrase placed on the internet include any</p>
<p style="text-align: right;">Page 27</p> <p>1 statement?</p> <p>2 A Yes.</p> <p>3 Q What would you say to the student in that</p> <p>4 discussion?</p> <p>5 A I would ask them why they feel that way. See what</p> <p>6 the reasons behind it are. If there is something that can be</p> <p>7 changed so that they feel more comfortable. Because this</p> <p>8 situation has arised before, people have said, you know, I</p> <p>9 just don't want to do it any more. And we would ask them why.</p> <p>10 Q What is the purpose of having a rule that you can't</p> <p>11 say something like I don't really like cheerleading that much</p> <p>12 any more?</p> <p>13 A Well, it's not that they can't say it, but it's</p> <p>14 something that's negative which would need to be addressed.</p> <p>15 Q Okay. Would you agree that the rules are generally</p> <p>16 supposed to tell people what they can and can't do?</p> <p>17 A Yes.</p> <p>18 Q Okay. You also testified that if a cheerleader</p> <p>19 posted something that criticized the selection process for</p> <p>20 cheerleading that would not violate the negative information</p> <p>21 provision, is that correct?</p> <p>22 A (Witness nodding).</p> <p>23 Q I am sorry, you have to say yes or no.</p> <p>24 A Yes. Sorry.</p> <p>25 Q Thank you.</p>	<p style="text-align: right;">Page 29</p> <p>1 communications that travel over the internet, like emails or</p> <p>2 text messages?</p> <p>3 A Well, yes. But I mean it's very rare that you would</p> <p>4 see an email or a text message.</p> <p>5 Q Doesn't that pose the same risk though, that someone</p> <p>6 would take a screen shot and share it?</p> <p>7 A Yes. But I am just stating that that is less likely</p> <p>8 that we would be notified of that.</p> <p>9 Q Are you trying to prohibit information that is most</p> <p>10 likely to be shared with the coaches? Is that what you're</p> <p>11 trying to do with the phrase placed on the internet?</p> <p>12 A I don't know what you mean by that.</p> <p>13 Q You explained that your concern with things being</p> <p>14 posted on line, even if they're posted privately, is that</p> <p>15 private communications can still move beyond their intended</p> <p>16 audience. Did I understand that correctly?</p> <p>17 A Private conversations could move beyond the intended</p> <p>18 audience. We're most concerned about public. But private</p> <p>19 things would still be addressed, not necessarily disciplined.</p> <p>20 But as a team, they need to be addressed so that we don't have</p> <p>21 issues within our team.</p> <p>22 Q Okay.</p> <p>23 A Does that make sense?</p> <p>24 Q I think so.</p> <p>25 So if someone shared negative information regarding</p>

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<p style="text-align: right;">Page 30</p> <p>1 cheerleading, cheerleaders or coaches in a private 2 conversation, would you consider that to possibly violate the 3 rules as well?</p> <p>4 A It is posting negative information. We usually do 5 find out about it. And we do usually do need to address it to 6 some extent so that we don't have chaos within our squad. But 7 when things are posted publically, then that's a different 8 situation.</p> <p>9 Q How often do you have to deal with fallout from 10 someone saying something negative about cheerleaders or 11 cheerleading?</p> <p>12 A Like this typical situation, this was the second 13 time that I have come across this.</p> <p>14 Q What do you mean by this?</p> <p>15 A A situation where a cheerleader posted something 16 negative on the internet that we had to punish them for it.</p> <p>17 Q What was the first time?</p> <p>18 A The first time was actually when April's daughter, 19 SG, posted something on the internet. This was my first year 20 as a coach.</p> <p>21 We were at a Minersville game, and there were 22 parents making comments about our uniforms. And then S. 23 posted on the internet something to the effect of, now don't 24 quote me on this, but something to the effect of they're just 25 jealous that they don't look as good in their uniforms as we</p>	<p style="text-align: right;">Page 32</p> <p>1 being the referee in between negative comments. Is that 2 correct?</p> <p>3 A Yes.</p> <p>4 Q Okay. Are there -- can you describe what you meant 5 by chaos?</p> <p>6 A Can I give you an example?</p> <p>7 Q Absolutely.</p> <p>8 A Okay. This year now I didn't handle as much as our 9 JV coach. She's not here. But we had situations where the 10 girls were texting one another arguing over a song that they 11 wanted to use for a pep rally. So one of them said something 12 mean to another girl. I don't even remember exactly what. 13 But she said something mean in this text message. So although 14 we didn't punish them because it was a private message that we 15 weren't in, but we did, you know, sit them down. We had to 16 have multiple conversations because we need to put the fire 17 out, so to say, within the team. Because we don't something 18 like that to continue. So although it's not something that we 19 can control, it's still something that needs to be addressed 20 so we can have a team-like environment.</p> <p>21 Q Is that fairly typical occurrence?</p> <p>22 A With teenage girls, yes.</p> <p>23 Q Okay. So just so I am -- I make sure I understand 24 what you -- how you apply this negative information rule. Do 25 I understand correctly that if something is private, it may</p>
<p style="text-align: right;">Page 31</p> <p>1 do. So then based on how this was worded, it said 2 specifically any negative information no matter what it was, 3 automatic dismissal from the squad. So she was suspended for 4 the remainder of the regular seasons game which I believe was 5 four basketball games at that time.</p> <p>6 Q What are -- what do you mean by regular season 7 games? Are there non-regular?</p> <p>8 A Well, there is scheduled games, then there is play 9 off games. The rest of the scheduled season games. And then 10 she was able to return for the playoff games. So that was how 11 that worked.</p> <p>12 Q Okay.</p> <p>13 A And then after discussing that with Tom Smith, we 14 felt that this should be more of a situation by situation 15 punishment, not just every single person who posts anything 16 negative should automatically be dismissed. Because I feel 17 like -- we felt like the situation between what happened 18 between B. and her daughter were completely different, and 19 they should be handled differently.</p> <p>20 Q Okay. So you considered whether to you thought B. 21 should be punished more harshly and removed including the 22 playoff games, correct?</p> <p>23 A Because profanity was used in this situation, yes.</p> <p>24 Q Okay. You earlier said something about having to 25 prevent chaos. I believe you are were referring to sort of</p>	<p style="text-align: right;">Page 33</p> <p>1 cause, to use your word, chaos, you might have to deal with 2 the fallout, but it would not be a violation of this rule, is 3 that correct?</p> <p>4 A Right.</p> <p>5 Q Okay. And is there some middle gray area where 6 something is not say a private team text message, but is not 7 public on the internet?</p> <p>8 A Well, when things are posted on social media, I 9 consider that public.</p> <p>10 Q Okay.</p> <p>11 A When things are shared between one another within a 12 single email, or a single the text message, I consider that 13 private. But when things are sent in groups, like a group 14 message, I consider that public because you are sharing it 15 with an entire group of people.</p> <p>16 Q Sorry. What would a group text message count as?</p> <p>17 A There are different situations. Like there is a 18 group included in. So if someone posts something negative or 19 profanity within my group, that's punishable because although 20 they're out of school, it's still a cheerleading group. 21 They're posting like F cheer, F school or whatever in this 22 public group, and I am their coach, I am in this group, that 23 would need to be punished. But if they have some group I have 24 never heard about and they're speaking about it, then there is 25 nothing that I can really do on their private conversations</p>

<p style="text-align: right;">Page 38</p> <p>1 slate.</p> <p>2 Q Okay. On that topic, at the preliminary injunction</p> <p>3 hearing, you testified that you wanted B. to be permanently</p> <p>4 removed from the team. What did you mean by that?</p> <p>5 A Removed for that school year. And then she was able</p> <p>6 to try out, or would have been able to try out the following</p> <p>7 year. She would have had to either way because she was on JV.</p> <p>8 She would have had to try out to try to get a varsity spot any</p> <p>9 ways. So either way, she had to try out.</p> <p>10 Q Okay. So you don't ever consider like lifetime ban</p> <p>11 someone from cheerleading?</p> <p>12 A No.</p> <p>13 Q Okay.</p> <p>14 A Not unless for some reason the school board or</p> <p>15 someone told me that I had to. But that's the only situation</p> <p>16 that would happen.</p> <p>17 Q Okay. And when someone is trying out for</p> <p>18 cheerleading, do you take into account stuff that happened in</p> <p>19 past years?</p> <p>20 A I do not.</p> <p>21 Q Okay. I want to talk about that italicized language</p> <p>22 at the top of D3 that you mentioned. That says all of the</p> <p>23 information below is at the coaches' discretions, and rules</p> <p>24 may be subject to change. If there is a situation with</p> <p>25 extreme circumstances, it will be addressed at the time. Have</p>	<p style="text-align: right;">Page 40</p> <p>1 sometimes I also reminded them, we do have a group text, so</p> <p>2 sometimes I remind them of things like that in a group text as</p> <p>3 well.</p> <p>4 Q Okay. I noticed that the cheerleading rules,</p> <p>5 several of the rules have specific consequences identified.</p> <p>6 Like if you are academically ineligible for three consecutive</p> <p>7 weeks, you will be dismissed from the team. Or if a</p> <p>8 cheerleader is benched three times, they'll be dismissed from</p> <p>9 the squad. But then other rules don't have specific</p> <p>10 consequences listed. What is the range of consequences that</p> <p>11 you might impose for violations of those rules?</p> <p>12 A That could be from simply sitting out a quarter at a</p> <p>13 game. Like I said, doing jumps at a practice, all of the way</p> <p>14 to being suspended temporarily or permanently from the squad</p> <p>15 for that year.</p> <p>16 Q What would a temporary suspension look like?</p> <p>17 A That would be like April's daughter, where she's</p> <p>18 suspended a certain amount of games based on the offense.</p> <p>19 Q Do you have any internal guidelines for what gets</p> <p>20 punished how?</p> <p>21 A What do you mean by internal guidelines?</p> <p>22 Q When you are trying to decide what punishment to</p> <p>23 impose, what is it that you are thinking about? Are you</p> <p>24 thinking about how you punished other students and trying to</p> <p>25 sort of compare --</p>
<p style="text-align: right;">Page 39</p> <p>1 you ever changed the rules?</p> <p>2 A I have never actually changed -- this year I have</p> <p>3 been trying out new rules. But I haven't actually changed</p> <p>4 them. So here's an example.</p> <p>5 Q Sure.</p> <p>6 A Over the summer, we have no real way to punish</p> <p>7 cheerleaders for coming late to practice, because usually it</p> <p>8 would be they come late, then the following game they are</p> <p>9 benched. But there is no games over the summer. So we</p> <p>10 decided if they're late, then they have to do ten toe touches.</p> <p>11 I don't know if you know what that is. They have to do ten</p> <p>12 jumps. So although we didn't actually change them in here</p> <p>13 yet, we were -- we did add that to our list of rules --</p> <p>14 Q Got it.</p> <p>15 A -- unofficially I guess you could say.</p> <p>16 Q Okay. Are there any other rules that you announced</p> <p>17 verbally but haven't yet written down?</p> <p>18 A There is one where we say, for example, they can't</p> <p>19 wear their warm ups outside of game day because warm-ups are</p> <p>20 considered a uniform or something like that. But there is</p> <p>21 nothing else that I can think of.</p> <p>22 Q Okay. When you create a new rule, like toe touches</p> <p>23 for being late in the summer or no warm ups outside of game</p> <p>24 day, how do you communicate that to the cheerleaders?</p> <p>25 A It's usually communicated at practice. Then</p>	<p style="text-align: right;">Page 41</p> <p>1 A That's definitely taken into consideration, how much</p> <p>2 does it effect the team. Moving forward will it continue to</p> <p>3 be an issue if we don't address it, to what extent do we need</p> <p>4 to address it, so on.</p> <p>5 Q Okay. At the preliminary injunction hearing, you</p> <p>6 testified that the main purpose of the cheerleading rules was</p> <p>7 so that the cheerleaders would learn to follow rules and learn</p> <p>8 rules have consequences. Do I remember that correctly?</p> <p>9 A Yes.</p> <p>10 Q Okay. You also testified that rules teach these --</p> <p>11 rules teach team building skills and other skills that</p> <p>12 students will take with them when they graduate?</p> <p>13 A Right.</p> <p>14 Q Is there any other purpose of the cheerleading</p> <p>15 rules?</p> <p>16 A In addition to that, just that we can function as --</p> <p>17 so that we can function as a team and present ourself</p> <p>18 accordingly as representatives of our school.</p> <p>19 Q Okay. And I believe that you mentioned earlier that</p> <p>20 some of the rules are about safety, like tying your hair back?</p> <p>21 A Yes.</p> <p>22 Q And some of them are about uniformity?</p> <p>23 A Yes.</p> <p>24 Q Okay. Any other purpose for any of these?</p> <p>25 If you want to take a minute and look at them,</p>

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42 to 45

<p style="text-align: right;">Page 42</p> <p>1 please do.</p> <p>2 A And then as -- the academic policy, we also want to</p> <p>3 put school first. So that's very important as well. So we</p> <p>4 definitely want our cheerleaders to make sure that their</p> <p>5 grades are where they need to be first before we worry about</p> <p>6 the cheerleading aspect. So that rule is in there as well</p> <p>7 because again, school is very important.</p> <p>8 Q Okay. What are the other skills other than team</p> <p>9 building that you want your cheerleaders to take with them</p> <p>10 when they graduate?</p> <p>11 A Just basic understanding that you need to follow</p> <p>12 rules when you are part of something, whether it is at the</p> <p>13 workplace, whether it's at -- in a college, that there are</p> <p>14 different rules that you have to follow in society.</p> <p>15 Q I am trying to understand how that connects to</p> <p>16 punishing students for what they do when they're not at</p> <p>17 cheerleading.</p> <p>18 A I can give you an example.</p> <p>19 Q Sure.</p> <p>20 A Okay. My husband works at a distribution center,</p> <p>21 and someone hacked into his Twitter account. And they were</p> <p>22 posting negative things about Auto Zone on the internet. They</p> <p>23 were about to fire him for his job because they were saying</p> <p>24 negative things about Auto Zone on the internet until he was</p> <p>25 able to prove that it was not him posting these things on</p>	<p style="text-align: right;">Page 44</p> <p>1 Q Yes. I am just trying to understand if something</p> <p>2 about the nature of cheerleading justifies some of these rules</p> <p>3 as opposed to general lessons for -- that all students would</p> <p>4 benefit from.</p> <p>5 A As cheerleaders, they have to be leaders and</p> <p>6 representatives of their school. They often have younger kids</p> <p>7 looking up to them. So I feel that they really need to put</p> <p>8 forth a positive representation for their school more so than</p> <p>9 just your average student.</p> <p>10 Q And swearing is incompatible with that positive</p> <p>11 representation?</p> <p>12 A Absolutely.</p> <p>13 Q Okay. So am I right that you don't try to monitor</p> <p>14 your cheerleaders' behavior when they're not at cheerleading?</p> <p>15 A Not intentionally, no.</p> <p>16 Q So you rely solely on other students reporting</p> <p>17 you -- reporting to you things that have happened outside of</p> <p>18 school?</p> <p>19 A Yes.</p> <p>20 Q Do you encourage students to report other rules</p> <p>21 violations to you?</p> <p>22 A No.</p> <p>23 Q Okay. Why not?</p> <p>24 A I would never specifically say if you see something</p> <p>25 else someone posts on the negative to tattle on them. That's</p>
<p style="text-align: right;">Page 43</p> <p>1 line. So I have heard of that, in addition to people during</p> <p>2 job applications looking up peoples Facebook pages and using</p> <p>3 that to hold it against them for their character. So there</p> <p>4 are situations where people do look at things on the internet</p> <p>5 and use that to make their decisions for punishment.</p> <p>6 Q So the lesson is, even things that you do on your</p> <p>7 own time can still effect other people and go beyond your</p> <p>8 control, is that the lesson?</p> <p>9 A Absolute. Absolutely.</p> <p>10 Q Okay. Do you think there is value in teaching kids</p> <p>11 that different rules apply to different activities?</p> <p>12 A That is true. They do, and yes.</p> <p>13 Q Okay.</p> <p>14 A For example, students and cheerleaders are held to</p> <p>15 different rules. Students obviously have to follow the</p> <p>16 handbook rules. But as cheerleaders, they -- they're</p> <p>17 representing our entire school and all of our team, so they're</p> <p>18 held to a higher standard.</p> <p>19 Q So that consideration is sort of specific to</p> <p>20 cheerleaders as opposed to kids on other teams or other</p> <p>21 extra-curriculars?</p> <p>22 A Every coach can make their own set of rules. So we</p> <p>23 don't have a uniform set of rules. So each coach has a</p> <p>24 different standard as to how they want to set their rules for</p> <p>25 their team.</p>	<p style="text-align: right;">Page 45</p> <p>1 just what they're taught when their young. Don't tattle on</p> <p>2 someone else. It's just something that I have never enforced.</p> <p>3 But if someone does come to me with negative information, I</p> <p>4 feel that in some capacity, I would have to address it,</p> <p>5 whether it's just speaking with the person, or if going</p> <p>6 through the rules and see if it applies to a rule.</p> <p>7 Q And is -- as you feel that you would have to address</p> <p>8 it, only if you think it is going to impact the team?</p> <p>9 A For the most part, yes, or the school.</p> <p>10 Q Okay.</p> <p>11 A Or the well being of any student in the school.</p> <p>12 Q So if someone did something the equivalent of</p> <p>13 tattling, to use your words, say a cheerleader came to you and</p> <p>14 said another cheerleader stubbed their toe and said shit,</p> <p>15 would you consider punishing that?</p> <p>16 A I would have to have proof that they said it. But I</p> <p>17 would definitely talk to them, especially if they're in</p> <p>18 uniform and explain to them when you are in uniform, you</p> <p>19 cannot curse.</p> <p>20 Usually in a situation like that when I am not sure</p> <p>21 they said it, it's just one single person reporting it, I</p> <p>22 would address them as a team, I would just say just remember</p> <p>23 you are in uniform, you have to remember that you make sure</p> <p>24 you're not using profanities and stuff like that.</p> <p>25 Q Okay.</p>

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46 to 49

<p style="text-align: right;">Page 46</p> <p>1 A But I would need to be sure before I actually punish</p> <p>2 them that they said it.</p> <p>3 Q Okay. What if the incident that was being reported</p> <p>4 to you was not when they were in uniform, it was say B. at the</p> <p>5 Cocoa Hut using the F word, not on Snapchat, but to a group of</p> <p>6 all of cheerleaders, they were hanging out, someone reported</p> <p>7 that to you, would you consider punishing B. for that?</p> <p>8 A Just as long as it's not anything to -- really</p> <p>9 cheerleading related, then no. Like, for example --</p> <p>10 Q Okay.</p> <p>11 A -- if there was a teacher in there, she was like F</p> <p>12 cheerleading. Do you know what I mean? I would, at that</p> <p>13 time, pull her aside, be like I heard that you said this, is</p> <p>14 there a reason that you said this. I just want you to know</p> <p>15 that people hear what you said. But she wouldn't necessarily</p> <p>16 be punished. But I would address it at that time.</p> <p>17 Q So at the preliminary injunction hearing, you</p> <p>18 testified that it was just the profanity alone and the middle</p> <p>19 finger that were punishable even if there had been no</p> <p>20 connection to cheerleading?</p> <p>21 A No. If it was, it had to be connected to</p> <p>22 cheerleading in order for it to be punishable.</p> <p>23 Q Okay. So when you testified at the preliminary</p> <p>24 injunction hearing, you were asked, was it the profanity and</p> <p>25 the profanity gesture alone that caused the removal, you</p>	<p style="text-align: right;">Page 48</p> <p>1 though you may not think that there are people around that are</p> <p>2 watching you, people hear what you are saying.</p> <p>3 Q Okay. But if B. had just stubbed her toe in the</p> <p>4 Cocoa Hut and said fuck to all of the cheerleaders and whoever</p> <p>5 else was in Cocoa Hut, would that be something that you would</p> <p>6 feel that you need to address?</p> <p>7 A No.</p> <p>8 Q Are you concerned that you will end up hearing more</p> <p>9 reports of rule violations about kids who are unpopular or are</p> <p>10 having some kind of fight with their teammates than kids who</p> <p>11 generally get along better with their teammates or happen on a</p> <p>12 particular day to be getting along better with their</p> <p>13 teammates?</p> <p>14 MR. BROWN: Objection to the form. But if you</p> <p>15 understand, go ahead and --</p> <p>16 THE WITNESS: I don't --</p> <p>17 MS. TACK-HOOPER: If you don't understand that, I</p> <p>18 could unpack it a little bit.</p> <p>19 MR. BROWN: I didn't understand it.</p> <p>20 BY MS. TACK-HOOPER:</p> <p>21 Q Fair enough. Fair enough.</p> <p>22 So you said that you're not trying to monitor kids'</p> <p>23 behavior when they're outside of school, you mostly just hear</p> <p>24 about what students report to you that happens outside of</p> <p>25 school; correct?</p>
<p style="text-align: right;">Page 47</p> <p>1 answered yes.</p> <p>2 A I think what I thought you meant by that question</p> <p>3 was there other factors that we took into consideration other</p> <p>4 than the Snap for her removal from the squat. But it was the</p> <p>5 gesture and the Snap linking to cheerleading which was the</p> <p>6 reason of the removal.</p> <p>7 Q Okay. But even if it had not been negative, I asked</p> <p>8 you if it had said cheerleading is fucking awesome, if that</p> <p>9 also violated the rules. You said yes.</p> <p>10 A Yes, because it's profanity linked with</p> <p>11 cheerleading.</p> <p>12 Q Okay. So if B in the Cocoa Hut says to the</p> <p>13 cheerleaders, cheerleading is fucking awesome, you would</p> <p>14 consider punishing that if somebody told you about it?</p> <p>15 A I would address it. Again, it wasn't something that</p> <p>16 was posted for the public to see. So that's a different</p> <p>17 situation. But it would still be something that would be</p> <p>18 addressed.</p> <p>19 Q Not because it violated the rules, but because you</p> <p>20 think that you would to deal with the fallout, is that right?</p> <p>21 A To an extent. And because although that's not --</p> <p>22 it's not actually addressed in here because it wasn't at a</p> <p>23 game. It wasn't unsportsmanlike conduct, it wasn't on</p> <p>24 technology, but it would be something that's -- that I feel</p> <p>25 would need to be addressed just so that they know that even</p>	<p style="text-align: right;">Page 49</p> <p>1 A Yes.</p> <p>2 Q Okay. It seems to me like that would end up in a</p> <p>3 situation where the things that you hear about are not things</p> <p>4 that were said by students that everybody agreed with, but</p> <p>5 things that were said by someone that their teammates didn't</p> <p>6 like. So that your -- seems to me like you might end up</p> <p>7 hearing more about rule violations by kids who at that</p> <p>8 particular moment are less popular with their teammates than</p> <p>9 others. Does that seem accurate to you?</p> <p>10 A Not necessarily. I mean they let me know no matter</p> <p>11 what, so and so has jewelry on, so and so is wearing the wrong</p> <p>12 shirt, so and so forgot their bloomers. So it's across the</p> <p>13 board that I hear things from. It's not any particular group,</p> <p>14 anyone being singled out that's unpopular. It's just across</p> <p>15 the board. It's just this is the most popular instance, this</p> <p>16 is what most people are I guess talking about, the situation</p> <p>17 with B. and whatnot. But I get texts from all different girls</p> <p>18 all times of the day about different situations.</p> <p>19 Q Okay.</p> <p>20 A So it's no specific group, no specific person that's</p> <p>21 considered unpopular. It's just -- it's just how it goes.</p> <p>22 Q Okay. Okay. All right. In terms of how you</p> <p>23 learned about B's Snap, would Coach Gnall be more familiar</p> <p>24 with that?</p> <p>25 A Yes.</p>

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50 to 53

<p style="text-align: right;">Page 50</p> <p>1 MS. TACK-HOOPER: Okay. Okay. All right.</p> <p>2 (Objections and responses to Plaintiffs'</p> <p>3 interrogatories produced and marked Deposition Exhibit Number</p> <p>4 P5.)</p> <p>5 BY MS. TACK-HOOPER:</p> <p>6 Q I have handed you what has been -- just been marked</p> <p>7 as Exhibit P-5. These are defendant's objections and</p> <p>8 responses to plaintiffs' first set of interrogatories.</p> <p>9 Have you seen this document before?</p> <p>10 A I believe so.</p> <p>11 Q Can you please look at No. 3? It starts at the</p> <p>12 bottom of page four and goes through page six.</p> <p>13 Have you read that before?</p> <p>14 Feel free to take a minute, however long that you</p> <p>15 need.</p> <p>16 A I may have. It looks familiar.</p> <p>17 Q Okay. Will you take a minute and read it? I am</p> <p>18 going to ask you if there is anything inaccurate in it.</p> <p>19 A Okay.</p> <p>20 MS. TACK-HOOPER: Thank you.</p> <p>21 MR. BROWN: Off the record.</p> <p>22 (Discussion held off the record.)</p> <p>23 MR. BROWN: Are you done?</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MS. TACK-HOOPER:</p>	<p style="text-align: right;">Page 52</p> <p>1 consider discipline? I am assuming that you don't talk to the</p> <p>2 Principal before giving somebody toe touches?</p> <p>3 A Right.</p> <p>4 Q Okay.</p> <p>5 A Anything that we feel is extreme.</p> <p>6 Q Such as?</p> <p>7 A Such as removal or suspension from a team or</p> <p>8 something like that.</p> <p>9 Q Okay. I am having trouble thinking of anything</p> <p>10 else that would be in the category actually. Is there</p> <p>11 anything other than suspension or removal from a team that you</p> <p>12 talked to him about?</p> <p>13 A Not -- no, they're the only two main extreme</p> <p>14 punishments I would say.</p> <p>15 MS. TACK-HOOPER: Okay. All right. Let's take a</p> <p>16 break.</p> <p>17 (Brief recess from 10:03 a.m. to 10:16 a.m.)</p> <p>18 BY MS. TACK-HOOPER:</p> <p>19 Q Okay. So we were talking about various situations</p> <p>20 and whether you would punish cheerleaders for swearing outside</p> <p>21 of school. And I think we were mostly talking about that in</p> <p>22 the context of the negative information provision. But there</p> <p>23 is, of course, also this respect provision that we looked at</p> <p>24 that says good sportsmanship will be enforced. This includes</p> <p>25 foul language and inappropriate gestures. Would it violate</p>
<p style="text-align: right;">Page 51</p> <p>1 Q Was there anything inaccurate in there?</p> <p>2 A I don't believe so.</p> <p>3 Q Okay. Anything that you feel was missing?</p> <p>4 A Not to my knowledge.</p> <p>5 Q Okay. So it says that you and Coach Gnall jointly</p> <p>6 decided to remove B. from the team, right?</p> <p>7 A Yes.</p> <p>8 Q Did you need approval from someone else to do that?</p> <p>9 A No.</p> <p>10 Q Did you tell B's mother that it was ultimately</p> <p>11 Principal Smith's decision?</p> <p>12 A I did not.</p> <p>13 Q Why did you decide to discuss it with Principal</p> <p>14 Smith first?</p> <p>15 A Every time we make any type of discipline-related</p> <p>16 decision, we generally talk to someone above us first just for</p> <p>17 their advice on how the situation should be handled. So we</p> <p>18 did want to go to Tom Smith first to see if it was an</p> <p>19 appropriate way to handle the situation. He said he just</p> <p>20 wanted to see for sure if she posted it, which she told him</p> <p>21 she did. And then after we got that confirmation, we, April</p> <p>22 and I, made the decision that she would be dismissed from the</p> <p>23 squad.</p> <p>24 Q Okay. You said you would talk to the Principal</p> <p>25 before making any kind of discipline decision. What do you</p>	<p style="text-align: right;">Page 53</p> <p>1 that rule if B. said the F word at the Cocoa Hut in the</p> <p>2 presence of whoever happened to be in the store at that time?</p> <p>3 A No.</p> <p>4 Q No. Why not?</p> <p>5 A Because it's not linked to cheerleading.</p> <p>6 Q So you interpret the respect provision as I have</p> <p>7 been calling it to only apply to language and conduct that</p> <p>8 connects to cheerleading in some way?</p> <p>9 A Yes.</p> <p>10 Q Okay. I believe that you also testified at the</p> <p>11 preliminary injunction hearing that B. was punished for the</p> <p>12 Snap, and not based on anything else that she had done. Is</p> <p>13 that correct?</p> <p>14 A Correct.</p> <p>15 Q What rules did the Snap violate?</p> <p>16 A The PIAA rules along with the cheerleading rules</p> <p>17 speaking about posting negative information using technology.</p> <p>18 Q Okay. Did it violate the respect provision as well?</p> <p>19 A Could you just remind me --</p> <p>20 Q Certainly. This is D3. The first bullet under</p> <p>21 sportsmanship and responsibilities/fundraising.</p> <p>22 A Yes.</p> <p>23 Q It did violate that?</p> <p>24 A Yes.</p> <p>25 Q When I say the PIAA rules, is there a specific part</p>

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54 to 57

<p style="text-align: right;">Page 54</p> <p>1 of the handbook that you're referring to?</p> <p>2 A I believe pages 80 and 81 of the handbook.</p> <p>3 Q Okay. This is D4.</p> <p>4 I am handing you what has previously been marked as</p> <p>5 D4, page 83 from the handbook. There is a star by number</p> <p>6 eight, personal conduct. Is that the section that you were</p> <p>7 referring to?</p> <p>8 A One of them.</p> <p>9 MS. TACK-HOOPER: Okay. Okay. P-6.</p> <p>10 (Rules document produced and marked Deposition</p> <p>11 Exhibit Number P6.)</p> <p>12 BY MS. TACK-HOOPER:</p> <p>13 Q Okay. I am handing you P-6 which is an excerpt from</p> <p>14 the handbook that I believe contains all of the sections on</p> <p>15 co-curricular activities.</p> <p>16 Is this the section of the handbook you are</p> <p>17 referring to?</p> <p>18 A Let me just take a second to look through it.</p> <p>19 Q Please do.</p> <p>20 A Yes. This is the section that I was speaking about.</p> <p>21 Q Which particular parts in there other than the</p> <p>22 personal conduct rule that we looked at?</p> <p>23 A Yes. I believe that's repeated in here. I believe</p> <p>24 most of it is contained in numbers thirteen and fourteen.</p> <p>25 Q Okay. So the personal conduct section says any</p>	<p style="text-align: right;">Page 56</p> <p>1 could -- any rules set forth that they can do that.</p> <p>2 Q Okay.</p> <p>3 A Softball maybe, but not the school.</p> <p>4 Q Okay. So you mentioned section fourteen in there.</p> <p>5 Can you look at paragraph fourteen? It contains a list of</p> <p>6 bullet points listing different causes for removal from a</p> <p>7 team. Correct?</p> <p>8 A Yes.</p> <p>9 Q Were any of those bullet points a basis for removing</p> <p>10 B. from the team?</p> <p>11 A No. But it does say that it is not limited to the</p> <p>12 following.</p> <p>13 MS. TACK-HOOPER: Okay. This will be P-7.</p> <p>14 (Document produced and marked Deposition Exhibit</p> <p>15 Number P7.)</p> <p>16 BY MS. TACK-HOOPER:</p> <p>17 Q I have just handed you Exhibit P7, policy 218 on</p> <p>18 student discipline.</p> <p>19 Is this policy separate from the handbook? Are you</p> <p>20 familiar with this policy?</p> <p>21 A I am not, no.</p> <p>22 Q Okay. So this policy was not part of your decision</p> <p>23 to punish B.?</p> <p>24 A Let me just read it quick.</p> <p>25 Q Certainly.</p>
<p style="text-align: right;">Page 55</p> <p>1 participant whose conduct is judged to reflect a discredit</p> <p>2 upon himself/herself, the team or Mahanoy schools, whether or</p> <p>3 not such activities takes place during or outside school hours</p> <p>4 during the school sports season would be subject to</p> <p>5 disciplinary action as determined by the co-coach.</p> <p>6 Is that what you're referring to as the basis for</p> <p>7 B's punishment?</p> <p>8 A That in combination with our cheerleading rules as</p> <p>9 well as thirteen and fourteen, so it's a combination of the</p> <p>10 several different ones.</p> <p>11 Q Okay. How did the Snap reflect a discredit upon</p> <p>12 herself, the team or the Mahanoy schools?</p> <p>13 A It gave our squad a negative image that our</p> <p>14 cheerleaders would post profanity on line on social media.</p> <p>15 Q And would this be true whether or not she had</p> <p>16 mentioned cheer?</p> <p>17 A By mentioning cheer is what made it inappropriate</p> <p>18 linking it to our school.</p> <p>19 Q So if it had just said fuck school, fuck softball,</p> <p>20 would you have punished her?</p> <p>21 A That would be a softball and school issue. It would</p> <p>22 be in their hands at that point.</p> <p>23 Q Okay. And is it your understanding that the school</p> <p>24 could punish her for that in some way?</p> <p>25 A I don't believe that they have anything that they</p>	<p style="text-align: right;">Page 57</p> <p>1 A Although this may be integrated into it, this was</p> <p>2 not used to make my decision, but this may be somehow</p> <p>3 mentioned in there.</p> <p>4 Q When you say in there, what do you mean?</p> <p>5 A In the handbook.</p> <p>6 Q Okay. No. 2 in this policy under off campus</p> <p>7 activities states that the code of student conduct applies to</p> <p>8 campus activities if the student is a member of an</p> <p>9 extracurricular activity and has been notified that particular</p> <p>10 off campus conduct could result in exclusion from such</p> <p>11 activities. How was B. notified that her Snap could result in</p> <p>12 exclusion from the cheer team?</p> <p>13 A Before or after it took place?</p> <p>14 Q Before.</p> <p>15 A We did not go into detail about every situation in</p> <p>16 our rules. So that was covered under the technology section</p> <p>17 along with, I am not sure what you call that, the negative</p> <p>18 provision.</p> <p>19 MR. BROWN: The respect.</p> <p>20 BY MS. TACK-HOOPER:</p> <p>21 Q The respect provision?</p> <p>22 A I am sorry?</p> <p>23 Q No problem.</p> <p>24 Was your decision to punish B. based on any other</p> <p>25 rules or policies that we haven't looked at yet today?</p>

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58 to 61

<p style="text-align: right;">Page 58</p> <p>1 A No.</p> <p>2 Q Okay. Sitting here today, can you think of any</p> <p>3 additional justifications for punishing B. that you didn't</p> <p>4 rely on at the time but have subsequently thought of?</p> <p>5 A Nothing that we haven't already discussed.</p> <p>6 Q Okay. When you made the decision to punish B., what</p> <p>7 was your understanding of who had been negatively impacted by</p> <p>8 the Snap?</p> <p>9 A The decision wasn't made based on who was negatively</p> <p>10 impacted, it just was made based on the fact that there was</p> <p>11 negativity put out there that could impact students in the</p> <p>12 school.</p> <p>13 Q Okay. In your view, was the impact -- well, did B's</p> <p>14 Snap have any impact on students that you were aware of?</p> <p>15 A To an extent, yes.</p> <p>16 Q What? And what was that impact?</p> <p>17 A I had several students come up to me throughout the</p> <p>18 day while I was teaching saying to me did I see it, what was I</p> <p>19 going to do about it, saying that it was inappropriate. And</p> <p>20 these were cheerleaders and non-cheerleaders that did approach</p> <p>21 me.</p> <p>22 Q And was -- you earlier described a lot of students</p> <p>23 telling you about things that other students had done?</p> <p>24 A Yes.</p> <p>25 Q Was this different from the usual back and forth</p>	<p style="text-align: right;">Page 60</p> <p>1 briefly, I cannot think of anything other than that.</p> <p>2 Q And that was because they were telling you about the</p> <p>3 Snap?</p> <p>4 A Yes. There were several different students that</p> <p>5 approached me at different times throughout the day, yes.</p> <p>6 Q Is it fair to say that reporting the Snap to you</p> <p>7 disrupted class more than the Snap itself?</p> <p>8 A Well, the Snap itself is why they reported, because</p> <p>9 they were upset about it. But I guess you can say that, that</p> <p>10 the reporting is what took time away from class.</p> <p>11 Q On a daily basis, how much time do you spend with</p> <p>12 your students just hearing about things that they were upset</p> <p>13 about? Is that something that happens on a daily basis?</p> <p>14 A Not so much. Maybe after school, but not during the</p> <p>15 day.</p> <p>16 Q Okay. So in your view, if there was disruption, it</p> <p>17 was the class time that the students spent telling you about</p> <p>18 the Snap, correct?</p> <p>19 A Yes.</p> <p>20 Q Was there any other -- anything else that was</p> <p>21 disrupted?</p> <p>22 A It was continuous over several days that they were</p> <p>23 approaching me about the Snap. So it did take away</p> <p>24 essentially in my algebra class, the one that D. was in. That</p> <p>25 one was disrupted quite a bit for just a couple days after it</p>
<p style="text-align: right;">Page 59</p> <p>1 that you hear about every day from the cheerleaders?</p> <p>2 A At the time, I didn't understand the extent of it,</p> <p>3 so I thought it was just something minor. So at the time, I</p> <p>4 didn't treat it with as much severity when they approached me</p> <p>5 in class.</p> <p>6 So at the initial time, the very first time the</p> <p>7 student approached me before I saw it, before April came to</p> <p>8 me, I did not understand the severity of the situation.</p> <p>9 Q And what was it that you didn't understand?</p> <p>10 A I didn't see the post. They were just telling me</p> <p>11 there was a post. They were asking me if I saw it.</p> <p>12 Q And you felt differently after you saw the Snap?</p> <p>13 A After I understand the contents of it, yes.</p> <p>14 Q Okay. And why did you feel differently about it</p> <p>15 once you saw the Snap?</p> <p>16 A Because I didn't realize it included profanity. I</p> <p>17 didn't see the gesture at the time.</p> <p>18 Q Okay. So just the idea that she had posted</p> <p>19 something negative about cheerleading didn't seem like a big</p> <p>20 deal to you, but the profanity and gesture made it more</p> <p>21 serious in your mind?</p> <p>22 A Yes. Absolutely.</p> <p>23 Q Okay. In your view, did the Snap actually disrupt</p> <p>24 any school activities of any kind?</p> <p>25 A Other than taking class time away from my students</p>	<p style="text-align: right;">Page 61</p> <p>1 happened. But then we continuously told them that we could</p> <p>2 not discuss it, then it settled down.</p> <p>3 Q Okay. And who is D.?</p> <p>4 A D.F. She was a varsity cheerleader at the time.</p> <p>5 Q Okay. And what did those conversations during</p> <p>6 class, how did they go?</p> <p>7 A They were more like have you seen it, what is</p> <p>8 happening. And just like -- April and I just kept addressing</p> <p>9 the situation the same way, we can't talk about it, we can't</p> <p>10 talk about it, I am not sure what you want me to say.</p> <p>11 Q Okay. And so how long was this conversation each</p> <p>12 day?</p> <p>13 A Five, ten minutes.</p> <p>14 Q How do you fill five to ten minutes with I can't</p> <p>15 talk about it?</p> <p>16 A They would just keep going on and on and on. I just</p> <p>17 kept repeating that there is nothing that I can do, nothing</p> <p>18 that I can tell you right now. But they were visibly upset,</p> <p>19 like can't you do anything, what are you going to do, have you</p> <p>20 seen it.</p> <p>21 Q Okay. And did the fact that some students were</p> <p>22 visibly upset by this influence your decision about how to</p> <p>23 punish B. at all?</p> <p>24 A No.</p> <p>25 Q Okay. Have you previously experienced disruption of</p>

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<p style="text-align: right;">Page 62</p> <p>1 class or any school activities because of something a student</p> <p>2 said outside of school?</p> <p>3 A No.</p> <p>4 Q Have you previously experienced disruption of class</p> <p>5 or school activities because a student swore outside of</p> <p>6 school?</p> <p>7 A No.</p> <p>8 Q Did you have any reason to think that this</p> <p>9 particular incident would disrupt class or school activities</p> <p>10 other than the fact that kids kept asking you about it?</p> <p>11 A No.</p> <p>12 Q After you removed B. from the team, did you tell the</p> <p>13 team why she had been removed?</p> <p>14 A No.</p> <p>15 Q What did you say to the team about why she wasn't</p> <p>16 there?</p> <p>17 A We did not say anything to them.</p> <p>18 Q Okay. Did you continue to get questions about the</p> <p>19 Snap?</p> <p>20 A Yes.</p> <p>21 Q And you just did not answer them?</p> <p>22 A We just told them that we could not talk about it.</p> <p>23 Q Okay. After the court ordered B. back on the team,</p> <p>24 how did her return to the team effect cheerleaders?</p> <p>25 A They were upset about it. They felt that it was</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. BROWN: Other than the plaintiff.</p> <p>2 BY MS. TACK-HOOPER:</p> <p>3 Q Other than the plaintiff. So in light of that, of</p> <p>4 that representation, you do not have to name the specific</p> <p>5 students who spoke with you. If you could tell me just how</p> <p>6 many students spoke with you and whether they were on varsity</p> <p>7 or JV cheerleading, that's fine.</p> <p>8 A Okay. At least four that I can think of, four</p> <p>9 specific cheerleaders that approached me about being upset</p> <p>10 about her return to the squad on JV.</p> <p>11 Q Okay. And you also testified that it was your</p> <p>12 impression that the whole squad was upset. Was that because</p> <p>13 of what these students told you about how other people felt?</p> <p>14 A It was just their reaction in general.</p> <p>15 Q To what, to B's presence?</p> <p>16 A Yes.</p> <p>17 Q Okay. And what is your understanding of why they</p> <p>18 were upset that she was back?</p> <p>19 A My understanding was that they were upset that she</p> <p>20 violated the rule. They understood, although we did not tell</p> <p>21 them, they knew what she posted. And they were upset that she</p> <p>22 was able to post such a thing, but not be punished for it.</p> <p>23 Q Okay.</p> <p>24 A In addition, do you want me to tell you about the</p> <p>25 varsity members as well?</p>
<p style="text-align: right;">Page 63</p> <p>1 unfair that she was being returned to the team.</p> <p>2 Q And when you say they, who specifically are you</p> <p>3 referring to who felt that way?</p> <p>4 A I had several students approach me. But it seemed</p> <p>5 collectively as a team, the majority of them were upset.</p> <p>6 Q So who specifically approached you?</p> <p>7 A Must I answer that question?</p> <p>8 Q Yes.</p> <p>9 A Okay.</p> <p>10 Q I am sorry.</p> <p>11 A I just know that they did not want me to mention</p> <p>12 their name, and that's why I am hesitant on mentioning it, one</p> <p>13 of them.</p> <p>14 MS. TACK-HOOPER: If you want to go off the record</p> <p>15 for a second, we can chat about that. Let's go off the</p> <p>16 record.</p> <p>17 (Discussion held off the record.)</p> <p>18 BY MS. TACK-HOOPER:</p> <p>19 Q Okay. So you do not have to tell me who</p> <p>20 specifically approached you in light of your lawyer's</p> <p>21 statements. You can just tell me how many people told you</p> <p>22 that they were upset and whether they were on variety or JV.</p> <p>23 MS. TACK-HOOPER: We're back on the record. Your</p> <p>24 lawyer has represented to me that the district is not going to</p> <p>25 rely on the testimony of any students in this matter so --</p>	<p style="text-align: right;">Page 65</p> <p>1 Q Oh, yes. Please. I am sorry. I thought that you</p> <p>2 said they were only on JV?</p> <p>3 A Yes. There was four on JV. I believe that year we</p> <p>4 had eight girls including B. on the squad. So that would have</p> <p>5 been four out of the eight that approached me. And then on</p> <p>6 varsity, there was at least four girls who approached me.</p> <p>7 Q Okay. Out of how many people on varsity?</p> <p>8 A Varsity I believe was eleven or twelve that year.</p> <p>9 Q Okay. Now, B's on varsity now?</p> <p>10 A Yes.</p> <p>11 Q Correct?</p> <p>12 Does there still seem to be any lingering resentment</p> <p>13 toward B.?</p> <p>14 A There is still anger, yes.</p> <p>15 MS. TACK-HOOPER: Okay. Let's mark this P-8.</p> <p>16 (Document produced and marked Deposition Exhibit</p> <p>17 Number P8.)</p> <p>18 BY MS. TACK-HOOPER:</p> <p>19 Q I am handing you B8. It appears to be an image of a</p> <p>20 text message with your name on it.</p> <p>21 Is this a text that you received?</p> <p>22 A Yes.</p> <p>23 Q Who was it from?</p> <p>24 A I have to look back in my records to see.</p> <p>25 Q Okay. I assume the redacted name is B., is that</p>

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<p style="text-align: right;">Page 66</p> <p>1 correct?</p> <p>2 A Yes. It's -- it appears they misspelled it.</p> <p>3 Q Okay. Is this text significant in any way in your</p> <p>4 view?</p> <p>5 A They sent me this text because they were upset that</p> <p>6 she was returning, yes.</p> <p>7 Q Okay. Do you recall whether this was a student or</p> <p>8 an adult texting you?</p> <p>9 A This was a cheerleader.</p> <p>10 Q Okay.</p> <p>11 A It was one of the cheerleaders that I discussed had</p> <p>12 contacted me.</p> <p>13 Q Okay. Okay. Did you respond to this text?</p> <p>14 A I don't believe so.</p> <p>15 Q Okay. How did you handle people telling you that</p> <p>16 they were upset that B. was back on the squad?</p> <p>17 A I just told them that wasn't our decision, and that</p> <p>18 they must treat her as anyone as if she was never removed from</p> <p>19 the squad.</p> <p>20 Q Okay. In the district's responses to</p> <p>21 interrogatories, which are P-5, if you want to look at them,</p> <p>22 otherwise, I can just read you the portion that I am referring</p> <p>23 to.</p> <p>24 A Okay.</p> <p>25 Q At the top of page eleven, the district says other</p>	<p style="text-align: right;">Page 68</p> <p>1 JV, and that that was part of the reason she posted that Snap.</p> <p>2 Why -- do you recall why she didn't make -- I am sorry,</p> <p>3 varsity. Do you recall why she didn't make varsity that year?</p> <p>4 A Her score was too low.</p> <p>5 Q Okay. Has B. violated any other rules since</p> <p>6 returning to the team or since the court order in this case</p> <p>7 that you're aware of?</p> <p>8 A Just missing practices.</p> <p>9 Q Okay. Are you currently considering any other</p> <p>10 punishment for B.?</p> <p>11 A Based on what?</p> <p>12 Q Anything. I don't --</p> <p>13 A Based on the missed practice or --</p> <p>14 Q Sure. Yes. Are you considering anything based on</p> <p>15 --</p> <p>16 A Any rule violations will be dealt with at the time.</p> <p>17 So if you miss practice, then that will be addressed at the</p> <p>18 time.</p> <p>19 Q Do you -- when you are deciding how and whether to</p> <p>20 punish someone, are you looking at some sort of cumulative</p> <p>21 conduct? So if somebody, you know, uses a cell phone during a</p> <p>22 game and is late to a practice, and says something mean about</p> <p>23 cheerleading, do you ever -- would you ever consider punishing</p> <p>24 someone for a bunch of things that might not on their own be</p> <p>25 significant, but together seem significant to you?</p>
<p style="text-align: right;">Page 67</p> <p>1 than the operative matter involving BL, the district is not</p> <p>2 aware of any incident since August 2016 in which punishment</p> <p>3 was considered for a student in response to off campus speech</p> <p>4 pursuant to the MAHS cheerleading rules or the code of conduct</p> <p>5 for an athletic team or extracurricular activity. Does that</p> <p>6 seem accurate to you?</p> <p>7 A I am sorry, where is that?</p> <p>8 Q The top of page eleven.</p> <p>9 In other words, the district has said it's not aware</p> <p>10 of any incidents since August 2016 in which punishment was</p> <p>11 considered for a student in response to off campus speech.</p> <p>12 A There haven't been anything after August, except I</p> <p>13 believe that S. was prior to that.</p> <p>14 Q And no incidents other than those two since you have</p> <p>15 been a cheerleading coach that you're aware of?</p> <p>16 A Not that I am aware of.</p> <p>17 Q Okay. Were there any incidents at any time in your</p> <p>18 four years as a cheerleading advisor in which you considered</p> <p>19 punishment for other forms of disrespect?</p> <p>20 A No. We have not come across situations like that.</p> <p>21 Q Okay. What about other off campus personal conduct,</p> <p>22 anything that you can think of?</p> <p>23 A No.</p> <p>24 Q Okay. I want to talk very briefly about B. as a</p> <p>25 cheerleader. As you know, she was upset that she didn't make</p>	<p style="text-align: right;">Page 69</p> <p>1 A No.</p> <p>2 Q This has previously been marked as D2.</p> <p>3 Is this -- what is this? Do you know what this is?</p> <p>4 A I believe this was a Snapchat that April received.</p> <p>5 Q All right.</p> <p>6 A Because you can take a Snap, like a picture of the</p> <p>7 floor or something, and then write text on it. I believe</p> <p>8 that's also a Snap.</p> <p>9 Q It says love how me and, redacted, get told we need</p> <p>10 a year of JV before we make varsity, but that doesn't matter</p> <p>11 to anyone else. And then there is an upside down smiley face.</p> <p>12 Does that violate any rules if it's a Snap that says that?</p> <p>13 A No.</p> <p>14 MS. TACK-HOOPER: Okay. All right. This will be</p> <p>15 P-9.</p> <p>16 (Document dated 9/27/17 produced and marked</p> <p>17 Deposition Exhibit Number P9.)</p> <p>18 BY MS. TACK-HOOPER:</p> <p>19 Q You have Exhibit P9, which is an email thread.</p> <p>20 If you would like to take a moment to read it, that</p> <p>21 probably makes sense.</p> <p>22 You can just read the portion from you on page one.</p> <p>23 A Okay.</p> <p>24 Q Okay. It says in addition to this incident,</p> <p>25 numerous students expressed that she was giving blank a hard</p>

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<p style="text-align: right;">Page 70</p> <p>1 time for making varsity squad as an incoming freshman. This</p> <p>2 is also against our rules.</p> <p>3 What does it mean to give someone a hard time?</p> <p>4 A From what I understand is she was being told that</p> <p>5 she didn't deserve to be on the squad because she was a</p> <p>6 freshman.</p> <p>7 Q Okay. And what rule did that violate?</p> <p>8 A Just not being respectful toward your teammates.</p> <p>9 Q Okay. Did you investigate whether that in fact</p> <p>10 happened?</p> <p>11 A I did not find any further information on that.</p> <p>12 Q Okay. And you have not punished B. for that</p> <p>13 incident?</p> <p>14 A I have not, no.</p> <p>15 Q Okay. This is D10.</p> <p>16 Was this a text message -- was this your text</p> <p>17 message?</p> <p>18 A Yes.</p> <p>19 Q With B.?</p> <p>20 A Yes.</p> <p>21 Q And she asks if you have to do a year of JV before</p> <p>22 you could make varsity, and you said say no. She responded</p> <p>23 that's stupid. Does saying that's stupid about that rule</p> <p>24 violate any rules?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q You were asked a question if something were</p> <p>2 lingering, you said there is still anger. I want to clarify.</p> <p>3 You said there is still anger on the part of whom to whom?</p> <p>4 A The cheerleaders are still upset.</p> <p>5 Q They're still upset with B. and the fact that she's</p> <p>6 on the team after what she did?</p> <p>7 A Yes.</p> <p>8 MR. BROWN: Okay. I just wanted to clarify that.</p> <p>9 That's all that I have.</p> <p>10</p> <p>11 BY MS. TACK-HOOPER:</p> <p>12 Q Just one follow-up question.</p> <p>13 You said that the Snap was definitely a violation.</p> <p>14 Did you consider the fact that the Snap didn't mention the</p> <p>15 school or any person or the district when you were deciding</p> <p>16 whether it violated the rule?</p> <p>17 A It was based on the fact that it mentioned</p> <p>18 cheerleading specifically.</p> <p>19 Q Okay. Did it matter to you that B. was not wearing</p> <p>20 her uniform or any school paraphernalia at all?</p> <p>21 A I feel that since she mentioned cheerleading, that</p> <p>22 was about the same as wearing your cheerleading uniform.</p> <p>23 MS. TACK-HOOPER: Okay. Nothing further.</p> <p>24 MR. BROWN: Actually then, I will have one more, I</p> <p>25 am afraid.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Is there anything that I did not ask you about today</p> <p>2 that you think is important in this case?</p> <p>3 A I don't believe so.</p> <p>4 MS. TACK-HOOPER: Okay. I am all set. Do you have</p> <p>5 anything?</p> <p>6 MR. BROWN: I do have just a couple of questions.</p> <p>7 BY MR. BROWN:</p> <p>8 Q Miss Luchetta, you recall there was a discussion</p> <p>9 today about what would and what would not be a violation of</p> <p>10 the negative information provision, the one dealing with the</p> <p>11 internet?</p> <p>12 A Yes.</p> <p>13 Q And you were given a series of hypotheticals of what</p> <p>14 might be a violation and what isn't a violation. Do you</p> <p>15 recall that discussion?</p> <p>16 A Yes.</p> <p>17 Q The Snap that B. posted that included the fuck cheer</p> <p>18 statement, did you have any doubt that that was a violation of</p> <p>19 the negative information provision?</p> <p>20 A I had no doubt that was definitely a violation.</p> <p>21 Q Just one. I think this is just clarifying. You</p> <p>22 were discussing just a few minutes ago that some of the</p> <p>23 cheerleaders were upset after finding out about B's post. Is</p> <p>24 that correct?</p> <p>25 A That's correct.</p>	<p style="text-align: right;">Page 73</p> <p>1 MS. TACK-HOOPER: Sorry.</p> <p>2</p> <p>3 BY MR. BROWN:</p> <p>4 Q Was there ever discussion with B. by you or anyone</p> <p>5 else at the district that you're aware of as to why she made</p> <p>6 that post including the phrase fuck cheer?</p> <p>7 A I believe she spoke with Tom Smith about it. And I</p> <p>8 -- when I spoke with her mom on the phone, she said it was</p> <p>9 that she was upset over not making the varsity squad.</p> <p>10 Q So your understanding was that her statement was</p> <p>11 related to the Mahanoy cheerleading team, and not just</p> <p>12 cheerleading in general?</p> <p>13 A Yes. Yes.</p> <p>14</p> <p>15 BY MS. TACK-HOOPER:</p> <p>16 Q If she had told you that she was watching a</p> <p>17 cheerleading competition on T.V. and decided she hated</p> <p>18 cheerleading and that's why she did it, would you have decided</p> <p>19 differently whether to punish her?</p> <p>20 A I don't see how that is related.</p> <p>21 Q What do you mean by that?</p> <p>22 A I don't understand how someone -- that situation</p> <p>23 would occur. I feel like that's unrealistic.</p> <p>24 Q So it was probably an unclear hypothetical. I am</p> <p>25 sorry.</p>